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U.S. DISTRICT COURT  
DISTRICT OF MASS.

Civil Case No. 04-10365JLT  
Judge Tauro

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**RESPONSE OF DEFENDANTS THE ASSOCIATION OF FLIGHT  
ATTENDANTS-CWA AND PATRICIA FRIEND, PAUL MAC KINNON,  
SUE COOK, KAREN SCOPA, SHIRLEY BARBER AND MARIA TORRE TO  
PLAINTIFF’S “NOTICE FOR HEARING AND RESPONSE TO MOTION TO DISMISS”**

Defendant, the Association of Flight Attendants-CWA, AFL-CIO (“AFA” or “the Union”), and individual defendants, Patricia Friend, Paul Mac Kinnon, Sue Cook, Karen Scopa, Shirley Barber and Maria Torre, through their undersigned counsel hereby respond to plaintiff’s “Notice For Hearing and Response to Motion to Dismiss.” In support of its response, AFA and the above-named individual defendants submit the following:

1. After receiving plaintiff's response to AFA's motion to dismiss, the defendants' counsel realized for the first time that plaintiff had actually filed two, almost identical, complaints against AFA and the above named individual defendants. The two actions were filed with the Court on July 1, 2004, and are captioned as Civil Actions Nos. 04-10365 JLT, and 04-10366 JLT. Civil Action No. 04-10365 names as defendants, AFA, and AFA Local Council 27 President Karen Scopa, Sue Cook, AFA Local Council 27 Vice President, and two employees of United Airlines, Inc. Civil Action No. 04-10366, on the other hand,

contains the same factual allegations and causes of actions as the other suit, but also names United Airlines, Inc., several United employees in their individual capacity, as well as AFA, and individual defendants Patricia Friend, AFA International President, Paul Mac Kinnon, International Secretary Treasurer, Shirley Barber AFA United Master Executive Council Secretary Treasurer, and Marie Torre. AFA United Master Executive Council Grievance Chairperson.

2. On September 10, 2004, AFA and *all* the individual AFA officers mentioned above filed a motion to dismiss the complaint in Civil Action No. 04-10365 pursuant to Rules 12(b)(1) and (b)(6) of the Federal Rules of Civil Procedure. Defendants' counsel mistakenly included in the motion to dismiss No. 04-10365, the individual defendants named in No. 04-10366 (Friend, Mac Kinnon, Barber and Torre).

3. Because both complaints contain the same factual allegations and causes of actions, AFA's motion to dismiss in No. 04-10365 applies with equal force to the factual allegations and causes of actions plead in No. 04-10366. Because these cases have not been consolidated, however, AFA, with the leave of this Court, will file a separate motion to dismiss in No. 04-10366 that is identical in all substantive ways to the motion to dismiss filed in No. 04-10365.

4. Therefore, AFA opposes plaintiff's request for a hearing as pre-mature. Rather, the Court should permit plaintiff additional time to respond to the motion to dismiss after AFA files its motion to dismiss in No. 04-10366.

Dated: September 22, 2004

Respectfully submitted,



Edward J. Gilmartin

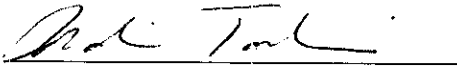
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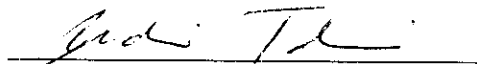
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Attorneys for AFA, Patricia Friend, Paul  
Mac Kinnon, Sue Cook, Karen Scopa, Shirley  
Barber, and Maria Torre

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Memorandum in Support of Motion to Dismiss has been served upon the Plaintiff, Harriett Menezes, 169 Thoreau Street, Apt. 8, Concord, MA 01742 and Brigitte M. Duffy, Seyfarth Shaw LLP, World Trade Center East, Two Seaport Lane, Suite 300, Boston, MA 02210 by first class mail this 22<sup>nd</sup> day of September, 2004.



Indira Talwani